

The rule that governs restriction in this case is PCT Rule 13.1:

13.1 : The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention.")

PCT Rule 13.2 describes the circumstances in which the requirement of Unity of Invention is to be considered fulfilled:

13.2: Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Therefore, the issue is whether there is a **special technical feature** that links the inventions of Groups I-IV.

The examiner argues that the inventions listed as Groups 1-IV lack the same corresponding special technical features because "DNA sequences encoding an HPPD enzyme that would hybridize to SEQ ID NO: 1 were known in the art prior to the invention... In addition, because the transformed plant of Group I has elevated vitamin E content and the transformed plant of Group IV has herbicide resistance, there is not a single general inventive concept as required under PCT Rule 13.1." (5/8/01, Office communication, page 2, last paragraph)

Applicants respond by pointing out according to PCT Rule 13.2 only **ONE** or more special technical feature must exist. Even if the examiner's arguments are accepted, a different special technical feature than the ones stated by the examiner

exists. The special technical feature common in Groups I-IV is the inventions' reliance on overexpression of an HPPD gene in the plants. This unexpected result of the present invention when considered "as a whole" represents advancement over the prior art.

Therefore, applicants request that restriction under 35 U.S.C. §§ 121 and 372 be withdrawn.

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Respectfully submitted,

KEIL & WEINKAUF



Herbert B. Keil
Reg. No. 18,967

1101 Connecticut Ave., N.W.
Washington, D.C. 20036
(202)659-0100

HBK/DSK/kas